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APR 1 6 2007

In re Application of Decoster et al Application No. 09/692,749

OFFICE OF PETITIONS

Filed: October 20, 2000

LETTER REGARDING PTA

This decision is in response to Applicants' "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT)" filed on December 7, 2006 asserting that applicants believe that they received too much PTA at the time of the mailing of the notice of allowance. Applicants believe that the correct amount of PTA is 295 days.

The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED-in part.** The Office will adjust the amount of APPLICANT DELAY from 269 days to 360 days. Overall, the determination of PTA at time of mailing of notice of allowance is two hundred and ninety-six (296) days.

Applicants assert that the amount of PTA at the time of the mailing of the notice of allowance is 295 days. Applicants do not provide detail as to how such number is arrived.

The Office agrees that too much PTA was awarded at the time of the mailing of the notice of allowance. The Office notes that the Office missed the requirement of 37 CFR 1.702(a)(1) by a period of 656 days. The Office notes that applicants failed to engage in reasonable efforts to conclude prosecution on four occasions under 37 CFR 1.704(b). The Office assessed three of these occasions on the PTA determination for reductions of 88, 91 and 90 days. However the PTA calculation failed to assess a reduction under 37 CFR 1.704(b) for the submission of an RCE on July 9, 2002. The amount of delay that should have been assessed is 91 days. Accordingly, the correction amount of applicant delay is 360 (91 +90 +88 +91=360) days. The amount of Office delay is 656 days. Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is 296 days.

Any additional delays under 37 CFR 1.702(a)(4) and 37 CFR 1.702(b) will be added at the time

¹The delay began on April 10, 2002, three months after the clock was restarted on January 9, 2002 and ended on July 9, 2002. The Office notes that the amendment after final rejection on 4/18/2002 did not stop the clock as to responding within three months of the final rejection because such amendment did not place the application in condition for allowance.

of the issuance of the patent and notice will be mailed to applicants in the Issue Notification letter that is mailed approximately three weeks prior to issuance.

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation

Day : Saturday Date: 4/14/2007

Time: 14:35:29

PALM INTRANET

PTA Calculations for Application: <u>09/692749</u>					
Application Filing Date:	10/20/2000	PTO Delay (PTO):	656		
Issue Date of Patent:		Three Years:	0		
Pre-Issue Petitions:	0	Applicant Delay (APPL):	269		
Post-Issue Petitions:	0	Total PTA (days):	296		
PTO Delay Adjustment:	-91				

PTO Delay Adjustment: [-91						
File Contents History						
Number	Date	Contents Description		APPL	START	
97	04/14/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		91		
89	11/24/2006	MAIL NOTICE OF ALLOWANCE				
88	11/22/2006	PARALEGAL TD ACCEPTED				
87	11/22/2006	ISSUE REVISION COMPLETED				
86	11/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
85	11/22/2006	CASE DOCKETED TO EXAMINER IN GAU				
84	11/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE				
83	11/22/2006	NOTICE OF ALLOWABILITY				
82	10/31/2006	MISCELLANEOUS INCOMING LETTER				
81	09/01/2006	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	656	_	63	
80	08/31/2006	BPAI DECISION - EXAMINER AFFIRMED IN PART		_		
79	03/21/2006	REQUEST FOR ORAL HEARING				
78	03/21/2006	CONFIRMATION OF HEARING BY APPELLANT				
77	03/10/2006	NOTIFICATION OF APPEAL HEARING				
76	01/26/2006	DOCKETING NOTICE MAILED TO APPELLANT				
75	01/26/2006	ASSIGNMENT OF APPEAL NUMBER				
74	12/28/2005	APPEAL AWAITING BPAI DOCKETING				
73	10/19/2005	MAIL REPLY BRIEF NOTED BY EXAMINER				
72	10/17/2005	REPLY BRIEF NOTED BY EXAMINER				
71	08/03/2005	REQUEST FOR ORAL HEARING				
70	08/10/2005	DATE FORWARDED TO EXAMINER				
69	08/03/2005	REPLY BRIEF FILED				
68	06/03/2005	MAIL EXAMINER'S ANSWER				

67	105/31/2005	EXAMINER'S ANSWER TO APPEAL BRIEF	II	II	
66		DATE FORWARDED TO EXAMINER]
<u> </u>				<u> </u>	
65		APPEAL BRIEF FILED		<u> </u>	
64	03/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
63		NOTICE OF APPEAL FILED		88	55
62	11/15/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
61	10/06/2004	MAIL ADVISORY ACTION (PTOL - 303)			
60	10/01/2004	ADVISORY ACTION (PTOL-303)			
59	09/08/2004	DATE FORWARDED TO EXAMINER			
58	08/26/2004	AMENDMENT AFTER FINAL REJECTION			
57	08/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	08/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
55	05/19/2004	MAIL FINAL REJECTION (PTOL - 326)			
54		FINAL REJECTION			
53	03/04/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
52	03/10/2004	DATE FORWARDED TO EXAMINER			
51	03/04/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	03/10/2004	DATE FORWARDED TO EXAMINER			
48	03/04/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	03/10/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	03/04/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	12/04/2003	NOTICE OF APPEAL FILED		91	43
44	12/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	06/04/2003	MAIL FINAL REJECTION (PTOL - 326)			
42	06/02/2003	FINAL REJECTION			
41	03/18/2003	DATE FORWARDED TO EXAMINER			
40	03/10/2003	RESPONSE AFTER NON-FINAL ACTION		90	38
39	03/10/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	09/10/2002	MAIL NON-FINAL REJECTION			
37	09/09/2002	NON-FINAL REJECTION			
36	07/19/2002	DATE FORWARDED TO EXAMINER			

35	07/09/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE		
34		DATE FORWARDED TO EXAMINER		
33	07/09/2002	REQUEST FOR CONTINUED EXAMINATION (RCE)		
32	07/19/2002	ABANDONMENT IF CPA)	-	
31	07/09/2002	REQUEST FOR EXTENSION OF TIME - GRANTED		
27	07/09/2002	WORKFLOW - REQUEST FOR RCE - BEGIN		
26	05/17/2002	MAIL ADVISORY ACTION (PTOL - 303)		
25	05/17/2002	ADVISORY ACTION (PTOL-303)		
24	04/30/2002	DATE FORWARDED TO EXAMINER		
23		AMENDMENT AFTER FINAL REJECTION		
22	04/18/2002	REQUEST FOR EXTENSION OF TIME - GRANTED		
21	01/09/2002	RESTART RESPONSE FINAL REJECTION (PTOL - 326)		
20	02/19/2002	PETITION DECISION - GRANTED		
19	01/09/2002	RESTART RESPONSE FINAL REJECTION (PTOL - 326)		
18	01/23/2002	PETITION ENTERED		
17	01/31/2002	CASE DOCKETED TO EXAMINER IN GAU		
16	12/13/2001	MAIL FINAL REJECTION (PTOL - 326)		
15	12/13/2001	FINAL REJECTION		
14	10/11/2001	DATE FORWARDED TO EXAMINER		
13	10/02/2001	RESPONSE AFTER NON-FINAL ACTION		
12	07/02/2001	CASE DOCKETED TO EXAMINER IN GAU		
11	07/05/2001	MAIL NON-FINAL REJECTION		
10	07/02/2001	NON-FINAL REJECTION		
9	06/27/2001	CASE DOCKETED TO EXAMINER IN GAU		
8	04/26/2001	CASE DOCKETED TO EXAMINER IN GAU		
7	10/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
6	04/23/2001	APPLICATION DISPATCHED FROM OIPE		
5	04/20/2001	APPLICATION IS NOW COMPLETE		
4	12/11/2000	NOTICE MAILEDAPPLICATION INCOMPLETE FILING DATE ASSIGNED		
3	12/08/2000	CORRESPONDENCE ADDRESS CHANGE		
2	11/17/2000	IFW SCAN & PACR AUTO SECURITY REVIEW		

1 10/20/2000 INITIAL EXAM TEAM NN

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

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Back to PALM | ASSIGNMENT | OASIS | Home page